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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICARDO DEL RIO, on behalf of
himself and all others similarly situated,

Plaintiff

vs.

UBER TECHNOLOGIES, INC., a
Delaware corporation, RASIER-CA,
LLC, a Delaware Limited Liability
Company, and DOES 1 through 10,
inclusive,

Defendants.

Case No.

CLASS ACTION FOR:

- 1. Failure to Pay Overtime Wages,
Labor Code Section 510**
- 2. Failure to Pay Minimum Wage,
Labor Code §§ 1194, 1197 and
1197.1 (Unpaid Minimum
Wages)**
- 3. Violation of Labor Code Section
2699 (PAGA)**
- 4. Failure to Provide Itemized
Statements**
- 5. Reimbursement of Expenses,
Labor Code Section 2802**

6. Failure to Provide Meal Periods
7. Failure to Provide Rest Periods
8. Labor Code § 203 Penalties
9. Unfair Business Practices (B&P § 17200)
10. Injunctive Relief

DEMAND FOR JURY TRIAL

Plaintiff RICARDO DEL RIO (“Plaintiff”) alleges, on behalf of himself and classes of those similarly situated, as follows:

I.

INTRODUCTION

1. This is an action by and on behalf of current and former Drivers (“Uber Drivers”) for UBER TECHNOLOGIES, INC., a Delaware Corporation and RASIER-CA, LLC, a Delaware Limited Liability Company (Defendants Uber Technologies Inc. and Rasier-CA, LLC are collectively referred to as “Defendants” and “Uber”) who are or were employed by Uber in locations in California as Uber “Independent Transportation Providers.” This job title is misleading as there is very little that is independent about the transportation work Uber Drivers do for Uber and Uber “Users” or passengers. Uber Drivers have little discretion in their

1 driving work for Uber. Uber Drivers obtain access to Uber passengers through the
2 Uber mobile application.

3
4 2. Plaintiff alleges that Uber Drivers are employees, and like similar
5 California employees, are entitled to basic wage protections such as overtime pay,
6 the opportunity to take rest and meal breaks, expense reimbursement, minimum
7 wage pay, and accurate and on-time payment of all wages due.

8
9 3. Uber Drivers have little discretion in their driving work for Uber.
10 Uber Drivers obtain access to Uber passengers through the Uber mobile
11 application. The Uber mobile application controls almost every aspect of an Uber
12 Driver's transportation work for Uber. If an Uber Driver's access to the Uber
13 mobile application is removed, the Uber Driver will have no opportunity for any
14 work for Uber or its Users.

15
16 4. Because Uber, through its mobile application, exercises significant
17 control over its Uber Drivers, giving them little, if any, discretion over the driving
18 work they do for Uber, Uber Drivers cannot reasonably be considered independent
19 contractors under California law.

20
21 5. Plaintiff's state law class actions claim are asserted on behalf of the
22 following individuals:

23
24 **All Uber Drivers (aka "Transportation Providers") who have**
25 **driven for Uber, an Uber "User" or Passenger in California during the**
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1 **Liability Period of August 11, 2011 to the filing of this Complaint, and**
2 **continuing.**

3
4 6. It is Defendants' burden of pleading, evidence and proof to show that
5 these employees are and were exempt under California wage and hour law. These
6 employees have spent an insignificant amount of work time doing anything that
7 constitutes "exempt" and for that reason and others, they are and always have been
8 entitled to overtime pay and non-exempt treatment under California wage and hour
9 law.
10

11
12 7. Plaintiff is a current Uber employee whose primary duties are non-
13 exempt and who is misclassified by Uber as exempt from the overtime provisions
14 of the applicable state wage and hour laws of California, as described in this
15 complaint. As an Uber employee, Plaintiff and the class he seeks to represent are
16 owed the important basic wage protections which other California employees are
17 afforded.
18
19

20 **II.**

21 **FACTUAL ALLEGATIONS**

22
23 8. Uber holds itself out as a neutral technological platform, designed to
24 enable drivers and passengers to transact the business of transportation. The reality,
25 however, is that Defendants are involved in every aspect of the operation.
26 Defendants vet prospective drivers, who must provide to Defendants their personal
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1 banking and residence information, as well as their Social Security Number. Uber
2 Drivers cannot use Defendants' application unless they pass Defendants'
3 background and DMV checks.
4

5 9. Defendants control the tools the drivers use; for example, drivers must
6 register their cars with Defendants, and none of their cars can be more than ten
7 years old. Defendants refer to "industry standards" with respect to Uber Drivers'
8 cars, however, it is unclear to what industry, other than the "taxi" industry,
9 Defendants are referring. Defendants monitor the Uber Drivers' approval ratings
10 and terminate their access to the application if the rating falls below a specific level
11 (4.6 stars).
12
13

14 10. While Defendants permit their drivers to hire people, no one other
15 than Defendants' approved and registered drivers are allowed to use Defendants'
16 intellectual property. Uber Drivers do not pay Defendants to use their intellectual
17 property.
18
19

20 11. The passengers pay Defendants a set price for the trip, and
21 Defendants, in turn, pay their drivers a non-negotiable service fee. If a passenger
22 cancels a trip request after the Uber Driver has accepted it, and the Uber Driver has
23 appeared at the pick-up location, the Uber Driver is not guaranteed a cancellation
24 fee. Defendants alone have the discretion to negotiate this fee with the passenger.
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1 Defendants discourage Uber Drivers from accepting tips because it would be
2 counterproductive to Defendants' advertising and marketing strategy.
3

4 12. Plaintiff's car and his labor were his only assets. Plaintiff's work did
5 not entail any "managerial" skills that could affect profit or loss. Aside from his
6 car, Plaintiff had no investment in the business. Defendants provided the iPhone
7 application, which was essential to his work. But for Defendants' intellectual
8 property, Plaintiff would not have been able to perform the work.
9

10 13. Defendants' business was subject to the requirements of the State
11 Industrial Welfare Commission Order 9-2001 and Labor Code § 510, which
12 require the following:
13

- 14 • Payment of the regular hourly pay rate for all hours worked during a
15 workday or workweek;
16
- 17 • Payment of overtime (one and one-half times the regular hourly rate)
18 for hours worked in excess of eight hours per day or 40 hours per
19 week or the first eight hours of the seventh consecutive workday of
20 the workweek; and
21
- 22 • Payment of double the regular hourly rate for hours worked in excess
23 of twelve hours per workday or eight hours on the seventh
24 consecutive workday of the workweek.
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14. Plaintiff alleges that Uber Drivers are not engaged in a business distinct from Uber's business. The Uber Platform ensures this. All work which Uber Drivers do for Uber is a part of Uber's regular business through Uber's platform. Through the Platform, Uber controls its entire transportation service. The Uber Platform is the critical tool to be used by Uber Drivers. Without access to the Platform, Uber Drivers cannot do any work for Uber.

15. Uber Drivers must pass stringent requirements to be placed on the platform. Uber Drivers who do not work enough hours for Uber are removed from having access to the Platform. Uber Drivers who are removed from the Platform cannot do any driver work for Uber.

16. An Uber Driver's opportunity for profit or loss depends solely on Uber (and approved access to the Uber Platform) and not in any way on an Uber Driver's particular skill or acumen, or on any managerial or other discretionary job skill.

III.

PARTIES

Plaintiff

17. Plaintiff RICARDO DEL RIO is a resident of ORANGE COUNTY, California. Plaintiff currently works as an Uber Driver. Plaintiff first started working for Uber in Los Angeles and Orange County. At times, Plaintiff has

1 worked shifts of more than 8 hours as an Uber Driver.

2 **Defendants**

3
4 18. UBER TECHNOLOGIES, INC., is a Delaware corporation, which
5 owns and operates the Uber ride sharing service. Uber operates its service
6 throughout California.

7
8 19. RASIER-CA, LLC, is a Delaware limited liability company, which
9 owns and operates the Uber ride sharing service. Uber operates its service
10 throughout California.

11
12 **IV.**

13 **JURISDICTION AND VENUE**

14
15 20. Venue is proper in this Court pursuant to 28 U.S.C. §1391 in that
16 many of the acts and transactions giving rise to this action occurred in this
17 district and because Defendants:

18
19 (i) are authorized to conduct business in this district and have
20 intentionally availed themselves of the laws and markets within this district
21 through the promotion, marketing, distribution and sale of their products in this
22 district;

23
24 (ii) do substantial business in this district; and

25
26 (iii) are subject to personal jurisdiction in this district.

1 21. Plaintiff also alleges that his case is related to the *O'Connor v. Uber*
2 *Technologies, Inc.*, USDC Case number 3:13-cv-03826-EMC action, which seeks
3 class certification relief for Uber drivers based on California Labor Code sections
4 351 and 2802.
5

6 22. Plaintiff is informed and believes, and based thereon alleges, that each
7 Defendant acted in all respects pertinent to this action as the agent of the other
8 defendants, carried out a joint scheme, business plan or policy in all respects
9 pertinent hereto, and the acts of each defendant are legally attributable to the other
10 defendants. Furthermore, Defendants in all respects acted as the employer and/or
11 joint employer of Plaintiff and the class he seeks to represent. Plaintiff is informed
12 and believes and thereon alleges that at all times relevant to this action, the named
13 defendant and defendants DOES 1 through 10 were affiliated and were an
14 integrated enterprise.
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19 23. Plaintiff is informed and believes and thereon alleges that at all
20 relevant times each defendant, directly or indirectly, or through agents or other
21 persons, employed Plaintiff and the other Class Members, and exercised control
22 over the wages, hours, and working conditions of Plaintiff and the other Class
23 Members. Plaintiff is informed and believes and thereon alleges that, at all
24 relevant times, each defendant was the principal, agent, partner, joint venturer,
25 officer, director, controlling shareholder, subsidiary, affiliate, parent corporation,
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1 successor in interest and/or predecessor in interest of some or all of the other
2 Defendants, and was engaged with some or all of the other Defendants in a joint
3 enterprise for profit, and bore such other relationships to some or all of the other
4 Defendants so as to be liable for their conduct with respect to the matters alleged
5 below. Plaintiff is informed and believes and thereon alleges that each defendant
6 acted pursuant to and within the scope of the relationships alleged above, that each
7 defendant knew or should have known about, authorized, ratified, adopted,
8 approved, controlled, aided and abetted the conduct of all other Defendants; and
9 that each defendant acted pursuant to a conspiracy and agreement to do the things
10 alleged herein.
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15 **V.**

16 **CLASS ALLEGATIONS**

17 24. Plaintiff brings the First through Tenth Causes of Action on behalf of
18 himself and on behalf of a proposed class of persons defined as:
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20 **All Uber Drivers (aka “Transportation Providers”) who have driven for**
21 **Uber, an Uber “User” or Passenger in California during the Liability**
22 **Period of August 11, 2011 to the filing of this Complaint, and**
23 **continuing.**
24

25 25. This action is brought and may properly be maintained as a class
26 action pursuant to the provisions of F.R.C.P., Rule 23.
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1 26. There is a well-defined community of interest in the litigation and the
2 Class is ascertainable.

3
4 A. **Numerosity:** The Class is so numerous that individual joinder
5 of all members is impractical under the circumstances of this case. While
6 the exact number of Class Members is unknown to Plaintiff at this time,
7 Plaintiff is informed and believes and thereon alleges that it is several
8 thousand employees or more.

9
10 B. **Common Questions Predominate:** Common questions of law
11 and fact exist as to all Class Members, and predominate over any questions
12 that affect only individual members of the Class. The common questions of
13 law and fact include, but are not limited to:

14
15 (A) What were and are the policies, programs, practices,
16 procedures and protocols of Defendants regarding the Class Members'
17 actual works and tasks and their job duties irrespective of job titles;

18
19 (B) Whether Defendants are and were subject to overtime
20 requirements contained in the California IWC Wage Orders and other
21 California law with respect to the Class Members pursuant to Labor Code
22 section 510, and Wage Order, No.4-2001 for the period commencing four
23 years prior to the date of the filing of this Complaint and continuing through
24 the date of judgment.
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1 (C) Whether Defendants' policy and practice of classifying
2 Class Members as exempt from overtime entitlement under California law
3 and Defendants' policy and practice of failing to pay overtime to the
4 California Class members violate applicable provisions of California law,
5 including applicable statutory and regulatory authority;
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8 (D) Whether Defendants unlawfully failed to pay overtime
9 compensation in violation of the California Unfair Competition Law, Cal.
10 Bus. & Prof. Code §17200 et seq., and the California Labor Code and related
11 regulations, Cal. Labor Code §§ 201, 202, 203, 226, 510, 1174, 1174.5 and
12 1194, the applicable Cal. Wage Orders;
13
14

15 (E) Whether Defendants violated California law by their
16 policies, programs practices, procedures and protocols regarding rest period
17 for the Class Members;
18

19 (F) What were and are the policies, programs, practices,
20 procedures and protocols of Defendants regarding furnishing the Class
21 Members, upon payment of wages, itemized statements required by Labor
22 Code section 226;
23

24 (G) Whether Defendants violated California law by their
25 policies, programs, procedures and protocols regarding furnishing to the
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1 Class Members, upon each payment of wages, itemized statements required
2 by Labor Code section 226;

3 (H) Whether Defendants violated Business & Professions
4 Code sections 17200 et seq., by their policies, programs, practices,
5 procedures and conduct referred to in this cause of action;
6

7 (I) Whether Defendants obtained voluntarily waivers with
8 consent and full disclosure, and whether a written signed waiver is effective
9 as to all future meal and rest periods;
10

11 (J) The proper measure of damages sustained and the proper
12 measure of restitution recoverable by members of the California Class; and
13

14 (K) Additional common questions of law and fact may
15 develop as the litigation progresses.
16

17 C. **Typicality:** Plaintiff's claims are typical of the claims of Class
18 Members. Plaintiff and other Class Members sustained losses, injuries and
19 damages arising out of the Defendants' common policies, programs,
20 practices, procedures, and course of conduct referred to in each cause of
21 action and throughout this Complaint, which were applied uniformly to the
22 Class Members as well as Plaintiff. Plaintiff seeks recoveries for the same
23 type of losses, injuries, and damages as were suffered by the other Class
24 Members as well as Plaintiff.
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1 **D. Adequacy:** Plaintiff and his counsel will fairly and adequately
2 protect the interests of the Class Members. Plaintiff has no interest that is
3 adverse to the interests of the other Class Members.
4

5 **E. Superiority:** A class action is superior to other available
6 means for the fair and efficient adjudication of this controversy. Individual
7 joinder of all Class Members is impractical. Class action treatment will
8 permit a large number of similarly situated persons to prosecute their
9 common claims in a single forum simultaneously, efficiently, and without
10 the unnecessary duplication of effort and expense that numerous individual
11 actions engender. Also, because the losses, injuries and damages suffered
12 by each of the individual Class Members are small in the sense pertinent to
13 class action analysis, the expenses and burden of individual litigation would
14 make it extremely difficult or impossible for the individual Class Members
15 to redress the wrongs done to them. On the other hand, important public
16 interests will be served by addressing the matter as a class action. The cost
17 to the court system and the public of adjudication of individual litigation and
18 claims would be substantial, and substantially more than if the claims are
19 treated as class action. Individual litigation and claims would also present
20 the potential for inconsistent or contradictory results.
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F. Public Policy Considerations: Defendants and other employers throughout the state violate wage and hour laws. Their current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Their former employees are fearful of bringing claims because doing so can harm their employment and future employment and future efforts to secure employment. Class actions provide Class Members who are not named in the complaint a degree of anonymity that allows for vindication of their rights while eliminating these risks, or at least enormously reducing them.

VI.

CAUSES OF ACTION

First Cause of Action

Failure to Pay Overtime Wages, Labor Code Section 510

(Lab. Code §§ 510, 1194 and 1199, IWC Wage Orders, and Related Violations –
Against All Defendants)

27. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set forth herein.

28. Throughout the period applicable to this cause of action, Plaintiff and the class he seeks to represent, worked in excess of forty (40) hours per week and in excess of excess of eight (8) hours per day.

1 29. Throughout the period applicable to this cause of action, Defendants
2 did not pay Plaintiff or Class Members at the required overtime rates for the work
3 described in the preceding paragraphs.
4

5 30. Pursuant to California Labor Code section 1194, Plaintiff and the
6 class he seeks to represent, are entitled to recover unpaid overtime compensation,
7 and other unpaid wages, plus interest, plus attorneys' fees and costs.
8

9 31. As a direct and proximate result of Defendant's unlawful conduct, as
10 set forth herein, the California Plaintiff and the California Class members have
11 sustained damages, including loss of earnings for hours of overtime worked on
12 behalf of Defendant in an amount to be established at trial, prejudgment interest,
13 and costs and attorneys' fees, pursuant to statute and other applicable law.
14
15

16 32. WHEREFORE, Plaintiff and the class he seeks to represent request
17 relief as described herein and below.
18

19 **Second Cause of Action**

20 *Failure to Pay Minimum wage, Labor Code §§ 1194, 1197 and 1197.1*

21 (Unpaid Minimum Wages-Against All Defendants)
22

23 33. Plaintiff incorporates all previous paragraphs of this Complaint as
24 though fully set forth herein.
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1 34. Defendants violated California Labor Code section 1194, 1197,
2 1197.1 and applicable Wage Order by willfully failing to pay all minimum wages
3 due to Plaintiffs and class members.
4

5 35. Plaintiff and the class he seeks to represent seek all actual,
6 consequential and incidental losses and damages, according to proof.
7

8 36. For penalties of \$100.00 for the initial failure to timely pay each
9 employee minimum wages, and \$250.00 for each subsequent failure to pay each
10 employee minimum wages pursuant to California Labor Code section 1197.1.
11

12 37. For liquidated damages in an amount equal to the wages unlawfully
13 unpaid and interest thereon pursuant to California Labor Code section 1194.2.
14

15 38. For unpaid wages and civil penalties pursuant to California Labor
16 Code sections 2699(f) and (g) and 558 in an amount of one hundred dollars (\$100)
17 for each violation per pay period for the initial violation and two hundred dollars
18 (\$200) for each aggrieved employee per pay period for each subsequent violation,
19 plus costs and attorneys' fees for violation of California Labor Code section 1198.
20
21

22 **Third Cause of Action**

23 *Violation of Labor Board Section 2699(PAGA)*

24 (Against All Defendants)

25 39. Plaintiff incorporates all previous paragraphs of this Complaint as
26 though fully set forth herein.
27
28

1 40. As a result of the acts alleged above, Plaintiff and the class he seeks to
2 represent seek penalties under Labor Code §§203, 212, 226.7, 510, 1194.

3
4 41. For each such violation, Plaintiff and the class he seeks to represent
5 are entitled to penalties in an amount to be shown at the time of trial subject to the
6 following formula.

7
8 1. For \$100 for the initial violation per employee per pay period.

9 2. For \$200 for each subsequent violation per employee per pay
10 period.

11
12 42. These penalties shall be allocated 25% to the Labor and Workforce
13 Development Agency (“LWDA”) and 75% to the affected employees.

14 43. Plaintiff sent a certified letter to the LDWA and Uber as prescribed by
15 the Labor Code postmarked July 16, 2015. Plaintiff and the class he seeks to
16 represent seek penalties as though the LDWA decided not to investigate pursuant
17 to Labor Code §2699.3(a)(2)(A).

18 44. WHEREFORE, Plaintiff and the class he seeks to represent request
19 relief as described herein and below and as deemed just.

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Fourth Cause of Action

Failure to Furnish Itemized Statements

(Lab. Code §§ 226(b), 1174, 1175 - Against All Defendants)

45. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set forth herein.

46. Throughout the period applicable to this cause of action, Defendants intentionally failed to furnish to Plaintiff and the class he seeks to represent, upon each payment of wages, itemized statements accurately showing, among other matters, the following: total hours worked, the applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate.

47. Plaintiff and the class he seeks to represent were damaged by these failures because, among other things, the failures led them to believe that they were not entitled to be paid overtime, even though they were so entitled, and because the failures hindered them from determining the amounts of overtime wages owed to them.

48. Plaintiff and the class he seeks to represent are entitled to the amounts provided for in Labor Code section 226(e), plus costs and attorneys' fees.

49. WHEREFORE, Plaintiff and the class he seeks to represent request relief as described herein and below.

Fifth Cause of Action

Reimbursement of Expenses, Labor Code Section 2802

(Against All Defendants)

50. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set forth herein.

51. Uber misclassifies Uber drivers as independent contractors, and fails to reimburse them for expenses they paid that should have been borne by their employer, which constitutes a violation of California Labor Code Section 2802.

52. In failing to reimburse Plaintiff and class members for expenses paid , Uber acted maliciously, oppressively, and despicably, with the wrongful intention of causing injury and hardship to Plaintiff and class members by reaping economic gain at Plaintiff and the class members' expense, in willful and conscious disregard of Plaintiff and class members' statutory and regulatory rights.

Sixth Cause of Action

Failure to Provide Meal Periods

(Lab. Code §§ 226.7 and 512)

(Against All Defendants)

53. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set forth herein.

1 54. Throughout the period applicable to this cause of action, California
2 law, as set forth in relevant part by the Industrial Welfare Commission Wage
3 Orders at section (11), provided as follows:
4

5 i. No employer shall employ any person for a
6 work period of more than five (5) hours without a meal
7 period of not less than 30 minutes . . .

8 ii. If an employer fails to provide an employee
9 a meal period in accordance with the applicable
10 provisions of this Order, the employer shall pay the
11 employee one (1) hour of pay at the employee's regular
12 rate of compensation for each work day that the meal
13 period is not provided.
14

15 55. Similarly, Labor Code section 226.7 requires payment of one (1) hour
16 of pay in lieu of meal periods not provided by the employer. Throughout the
17 period applicable to this cause of action, Defendants failed to consistently allow
18 and provide the meal periods required by California law. Therefore, Plaintiff and
19 the class he seeks to represent are entitled to compensation as stated above, plus
20 interest, attorneys' fees, costs and other applicable relief.
21

22 56. Throughout the period applicable to this cause of action, Defendants
23 required Plaintiff and the class he seeks to represent to work during meal periods
24 mandated by the applicable orders of the Industrial Welfare Commission.
25 Therefore Plaintiff and the class he seeks to represent are entitled to be paid as
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1 stated in Labor Code section 226.7, plus interest, attorneys' fees, costs and other
2 applicable relief.

3
4 57. On information and belief, Plaintiff alleges that class members did not
5 voluntarily or willfully waive rest and/or meal periods and were regularly required
6 to work through rest and meal periods. Defendants failed to meet the requirements
7 for lawful on-duty rest and/or meal periods and/or instituted a course of conduct
8 that created a working environment in which non-exempt employees were
9 incapable of taking rest and/or meal periods. As such, non-exempt employees
10 were intimidated or coerced into waiving rest and/or meal periods, and any written
11 waivers were obtained without full disclosure and are thus involuntarily and
12 without consent.
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16 58. WHEREFORE, Plaintiff and the class he seeks to represent request
17 relief as described herein and below.
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19 **Seventh Cause of Action**

20 *Failure to Provide Rest Periods*

21 (Lab. Code § 226.7 - Against All Defendants)
22

23 59. Plaintiff incorporates all previous paragraphs of this Complaint as
24 though fully set forth herein.

25 60. By their failure to provide rest periods for every four (4) hours or
26 major fraction thereof worked per workday by non-exempt employees, and failing
27
28

1 to provide one (1) hour's pay in lieu thereof, as alleged above and herein,
2 Defendants willfully violated the provisions of Labor Code sections 226.7 and
3 IWC Wage Orders at section (12).
4

5 61. By failing to keep adequate time records required by sections 226 and
6 1174(d) of the Labor Code and IWC Wage Order at section (7), Defendants have
7 injured Plaintiff and Class Members and made it difficult to calculate the unpaid
8 rest and meal period compensation due Plaintiff and members of the Plaintiff
9 Class. On information and belief, Plaintiff alleges that Defendants' failure to
10 maintain accurate records was willful.
11

12 62. As a result of the unlawful acts of Defendants, Plaintiff and the class
13 he seeks to represent have been deprived of premium wages in amounts to be
14 determined at trial, and are entitled to an accounting and recovery of such amounts,
15 plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code
16 sections 201, 202, 203, 218.5, 226, 226.7, 1194 and 1199, and the applicable IWC
17 Wage Orders.
18

19 63. WHEREFORE, Plaintiff and the class he seeks to represent request
20 relief as described herein and below.
21

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Eighth Cause of Action

Labor Code Section 203 Penalties

(Lab. Code §§ 201, 202, and 203 - Against All Defendants)

64. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set forth herein.

65. Plaintiff seeks to represent a subclass of Uber Drivers who are owed penalties under Labor Code section 203 who were discharged or quit their employment within the statute of limitations period applicable to this cause of action. As of the filing of the Complaint, Defendants failed to timely pay wages due, and Plaintiff and Class Members are owed penalties pursuant to Labor Code sections 201, 202, 203.

66. Defendants failed to pay said employees, without abatement, all wages (as defined by applicable California law) within the time required by applicable California law. Among other things, these employees were never paid any of the overtime compensation referred to in this Complaint, nor were they paid the other unpaid wages referred to in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code section 203.

67. Therefore, each of these employees is entitled to one day's wages for each day he or she was not timely paid all said wages due, up to a maximum of

thirty days' wages for each employee. Because none of said employees were ever paid the overtime wages to which they were entitled, and were never paid other unpaid wages referred to in this Complaint, each of said employees is entitled to thirty days' wages.

68. WHEREFORE, Plaintiff and the class he seeks to represent request relief as described herein and below.

Ninth Cause of Action

Unfair Business Practices (B&P § 17200)

(Bus. and Prof. Code § 17200 *et seq.*- Against All Defendants)

69. Plaintiff incorporates all previous paragraphs of this Complaint as though fully set forth herein.

70. Plaintiff brings this action on behalf of each and all members of the general public, including class members and Plaintiff himself, pursuant to Business and Professions Code sections 17200 *et seq.* Defendants' conduct alleged above constitutes unlawful business acts and practices in violation of Business & Professions Code sections 17200 *et seq.* ("UCL"). Defendant engaged in unfair competition in violation of the UCL by violating, *inter alia*, each of the following laws:

3. California applicable Wage Orders
4. California Labor Code § 1194;
5. California Labor Code §§ 201, 202, 203, 204, and 226;

1 6. California Labor Code § 1174; and

2 7. California Labor Code § 510, which provides in relevant part:

3
4 *ii. Any work in excess of eight*
5 *hours in one workday and any work in*
6 *excess of 40 hours in any one workweek and*
7 *the first eight hours worked on the seventh*
8 *day of work in any one workweek shall be*
9 *compensated at the rate of no less than one*
10 *and one-half times the regular rate of pay*
11 *for an employee. Any work in excess of 12*
12 *hours in one day shall be compensated at*
13 *the rate of no less than twice the regular*
14 *rate of pay for an employee. In addition, any*
15 *work in excess of eight hours on any seventh*
16 *day of a workweek shall be compensated at*
17 *the rate of no less than twice the regular*
18 *rate of pay of an employee.*

19
20 71. Defendant's course of conduct, acts, and practices in violation of the
21 California laws mentioned in the above paragraph constitute a separate and
22 independent violation of the UCL. Defendant's conduct described herein violates
23 the policy or spirit of such laws or otherwise significantly threatens or harms
24 competition. The harm to Plaintiff and the California Class in being wrongfully
25 denied lawfully earned wages outweighs the utility, if any, of Defendant's policies
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1 or practices and, therefore, Defendant's actions described herein constitute an
2 unfair business practice or act within the meaning of the UCL.
3

4 72. The unlawful and unfair business practices and acts of Defendant,
5 described above, have injured the California Class members in that they were
6 wrongfully denied the payment of earned overtime wages.
7

8 73. The Plaintiff and the class he seeks to represent seeks restitution in the
9 amount of the respective unpaid wages earned and due at a rate not less than one
10 and one-halftimes the regular rate of pay for work performed in excess of forty
11 hours in a work week, or eight hours in a day, and double the regular rate of pay
12 for work performed in excess of twelve hours per day and such other legal and
13 equitable relief from Defendants' unlawful and willful conduct as the Court deems
14 just and proper.
15
16

17 74. Pursuant to Business and Professions Code sections 17200 *et seq.*, for
18 the statute of limitations period covered by this cause of action, Plaintiff and the
19 class he seeks to represent are entitled to restitution for, at least, the unpaid
20 overtime earnings and other unpaid earnings withheld and retained by Defendants
21 referred to above.
22
23

24 75. Plaintiff and the class he seeks to represent and the general public are
25 also entitled to permanent injunctive and declaratory relief prohibiting Defendants
26 from engaging in the violations and other misconduct referred to above.
27
28

1 76. Defendants are also liable to pay attorneys' fees pursuant to California
2 Code of Civil Procedure section 1021.5 and other applicable law, and costs. The
3 Plaintiff, on behalf of himself and Class members, also seek recovery of attorneys'
4 fees and costs of this action to be paid by Uber, as provided by the UCL and
5 California Labor Code §§ 218, 218.5, and 1194.
6

7
8 77. WHEREFORE, Plaintiff and the class he seeks to represent request
9 relief as described herein and below.
10

11 **Tenth Cause of Action**

12 *Injunctive Relief*

13 (Against All Defendants)

14 78. Plaintiff incorporates all previous paragraphs of this Complaint as
15 though fully set forth herein.
16

17 79. Ubers employment practices, including but not limited to, its
18 misclassification of Uber Drivers will cause Plaintiff and the Class Members to
19 suffer irreparable injury.
20

21 80. If not enjoined by order of this Court, Uber will continue to
22 misclassify its drivers as exempt from the basic wage protections such as overtime
23 pay, the opportunity to take rest and meal breaks, expense reimbursement,
24 minimum wage pay, and accurate and on-time payment of all wages due and
25 Plaintiff and the Class Members will suffer irreparable injury.
26
27
28

PRAYER FOR RELIEF

1. That the Court determine that this action may be maintained as a class action;

3. That the attorneys of record for Plaintiff whose names appear in this complaint be appointed Class counsel;

5. For such general and special damages as may be appropriate;

7. For pre-judgment interest;

9. For restitution as described in the cause of action under Business & Professions Code §§ 17200 *et seq.* above;

1 10. For permanent injunctive and declaratory relief described in the cause
2 of action under Business & Professions Code §§ 17200 *et seq.* above;
3

4 11. For penalties pursuant to Labor Code § 2699;

5 12. For penalties pursuant to Labor Code § 2802;

6 13. For penalties pursuant to
7

8 14. For penalties pursuant to

9 15. A declaratory judgment that the practices complained of herein are
10 unlawful under California state law;
11

12 16. Attorney's fees and costs of suit, including expert fees pursuant to Ca.
13 Lab. Code §§218.5, 1194, and Calif. Code Civ. Proc. §1021.5; and
14

15 17. Such other injunctive and equitable relief as the Court may deem
16 proper.
17

18
19 **DATED:** August 11, 2015

HAMNER LAW OFFICES, APC

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21
22 

23 By: Christopher J. Hamner, Esq., Counsel
24 for Plaintiff, RICARDO DEL RIO, on
25 behalf of himself and all others similarly
26 situated
27
28